IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

WP(C).No. 12956 of 2004(P)

PETITIONER:

P.M. RETNAKARAN, ERANTHANATHU,
POOZHIKKOL P.O., KADUTHURUTHY.

BY ADV. SRI.T.R.V.G.ARUN.

RESPONDENTS:

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1. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL) KOTTAYAM.

2. SANKARAN, SARAS HOUSE, POOZHIKKOL P.O., KADUTHURUTHY.

3. THE VAICKOM TALIK MICHA BHOOMI CHERUKIDA KARSHIKA SAHAKARANA SANGHOM, K.672, POOZHIKKOL P.O., MANNAR, KADUTHURUTHY, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.P.N.MOHANAN - R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)No. 12956/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE ELECTION NOTIFICATION DATED 07/12/2003.

EXT.P2 COPY OF THE NOTICE NO.HM-9869/03 DATED 25/02/2004.

EXT.P3 COPY OF THE OBJECTION DATED 28/02/2004.

EXT.P4 COPY OF THE CERTIFICATE DATED 06/01/2004 ISSUED BY KADUTHURUTHY KARSHIKA SERVICE CO-OPERATIVE Bank.

EXT.P5 COPY OF THE ORDER NO.HM.9869/2003 DATED 01/04/2004 OF THE JOINTE REGISTRAR.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 12956 of 2004

Dated, this the 28th day of February, 2007

J U D G M E N T

Petitioner's election to the Managing Committee of the 3rd respondent Society is cancelled vide Ext.P5 order against which this writ petition is filed. I heard the learned counsel for the petitioner and the learned counsel appearing for the 2nd respondent. The petitioner was a surety for the loan availed by two persons from another Society and the loan fell in arrears. In spite of notice, petitioner did not clear the arrears as surety and therefore the creditor society filed arbitration case. Ultimately, amount awarded was cleared by the borrowers on 06/01/2004. However, prior to clearing the loan, petitioner submitted nomination for contesting in the election to the Managing Committee of 3rd respondent Society. 2nd respondent questioned petitioner's eligibility to contest in the election because according to him, under Rule 44(1)(c) of the Corporative Societies Rules, petitioner is disqualified as he was in arrears for three months after service of notice by the creditor Society. Even though

counsel for the petitioner contended that by the time election result was published, the arrears were discharged, this Court has in the decision in **Moosa Vs. Joint Registrar**, reported in 1994 (2) KLT 943, held that even if disqualification is subsequently removed, the election to the Managing Committee is not revalidated. Since the petitioner was ineligible to stand for the election by virtue of his disqualification, his election to the Managing Committee is invalid. This writ petition is therefore dismissed upholding Ext.P5 order. However since the petitioner was allowed to continue under interim orders of this Court he will cease to be member of the Managing Committee only with effect from date of this judgment.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg